

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.) No. 3:08-CR-143
)
)
NATHANIEL SMITH, JR.,) (VARLAN/GUYTON)
)
Defendant.)

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case is before the Court on the defendant's *pro se* motion to review counsel [Doc. 28], filed on January 7, 2009. See 28 U.S.C. § 636(b). The parties appeared on January 23, 2009, for a hearing on the *pro se* motion. Assistant United States Attorney Tracy Stone appeared on behalf of the government. Attorney Paula R. Voss, appointed counsel for the defendant, was present as was the defendant.

In his motion, the defendant seeks to terminate the representation by Ms. Voss, because he believes that Ms. Voss is not acting in his best interest. He would like the Court to appoint a new attorney for him. At the hearing, the defendant confirmed that he still wanted a new attorney. Ms. Voss stated that she had discussed the matter with the defendant, that they had a divergence of opinion, and that the defendant's confidence in her had declined. She believed the attorney-client relationship to be irretrievably broken. The government took no position on the defendant's *pro se* motion.

The Court finds good cause exists to substitute new counsel for Attorney Voss. Based upon the statements of the defendant in his motion and Ms. Voss's representations in court, the Court concludes that the trust necessary for an adequate defense no longer exists in the attorney-client relationship and that the situation is unlikely to improve. Based upon good cause shown, the defendant's *pro se* motion to review counsel [Doc. 28] is **GRANTED**, and Ms. Voss is relieved as counsel for the defendant. See Wilson v. Mintzes, 761 F.2d 275, 280 (6th Cir. 1985) (holding that a defendant seeking to substitute counsel must show good cause).

The Court recognizes the need for the defendant to be continuously represented by conflict-free counsel. At the January 23, 2009 hearing, Attorney Boyd Venable appeared and agreed to accept representation of the defendant. The Court therefore and hereby substitutes and appoints Mr. Venable under the Civil Justice Act (CJA) as counsel of record for the defendant. The Court informed Mr. Venable of the April 6, 2009 trial date and the February 6, 2009 motion-filing deadline in this case. If after reviewing the file, Mr. Venable determines that additional time to file motions is necessary, he should move for an extension of the motion deadline by February 6. With regard to other scheduling in the case, the parties are to appear before the undersigned for a pretrial conference on **March 18, 2009, at 2:00 p.m.**

Accordingly, it is ordered:

- (1) The defendant's *pro se* motion to review counsel [Doc. 28] is **GRANTED**; and

(2) Attorney Boyd Venable is substituted as the defendant's counsel of record under the CJA.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge